

# **Office of Defense Services (ODS) Proposed Budget FY 2020**



**JFC Hearing  
February 11, 2019**



# Who are we?

The ODS consists of three branches: the Public Defenders Office (PDO), the Office of Conflicts Counsel (OCC) and Central Administration (CA).

The ODS employs 225 people as either full time employees (FTEs), casual seasonal employees (C/S) or independent contractors.

# What do we do

The ODS is a state funded public agency whose lawyers defend every indigent person accused of a crime in Delaware.

ODS' mission is to provide every indigent person accused of a crime in Delaware with competent, conflict-free representation.

# **ODS' Mission**

Authorized/mandated by law:

6th Am. To U.S. Const.

Art. I, Sec. 7 of DE Const.

Gideon v. Wainwright

State v. Lewis

**The ODS represents**

**85%**

**of criminal defendants in  
Delaware**

# By the numbers...

In FY 18, Assistant Public Defenders defended clients in over 42,000 cases.

In FY 18, lawyers from the Office of Conflicts Counsel (OCC) defended clients in over 5,000 cases.

# Central Administration

There are 32 employees in ODS'  
Central Administration Branch:

4 on our Executive Team

19 intake personnel

3 in our HR/Fiscal department

5 on our IT team

1 Training and Development Director

# **Public Defenders Office**

In FY 18 PDO lawyers defended clients in approximately 42,000 cases. We have 145 employees, across all three counties, representing clients in the Court of Common Pleas, Superior Court, Family Court, and the Delaware Supreme Court.



# **PDO continued**

The PDO's financial picture consists of mostly fixed costs, with 90+ percent going towards personnel.

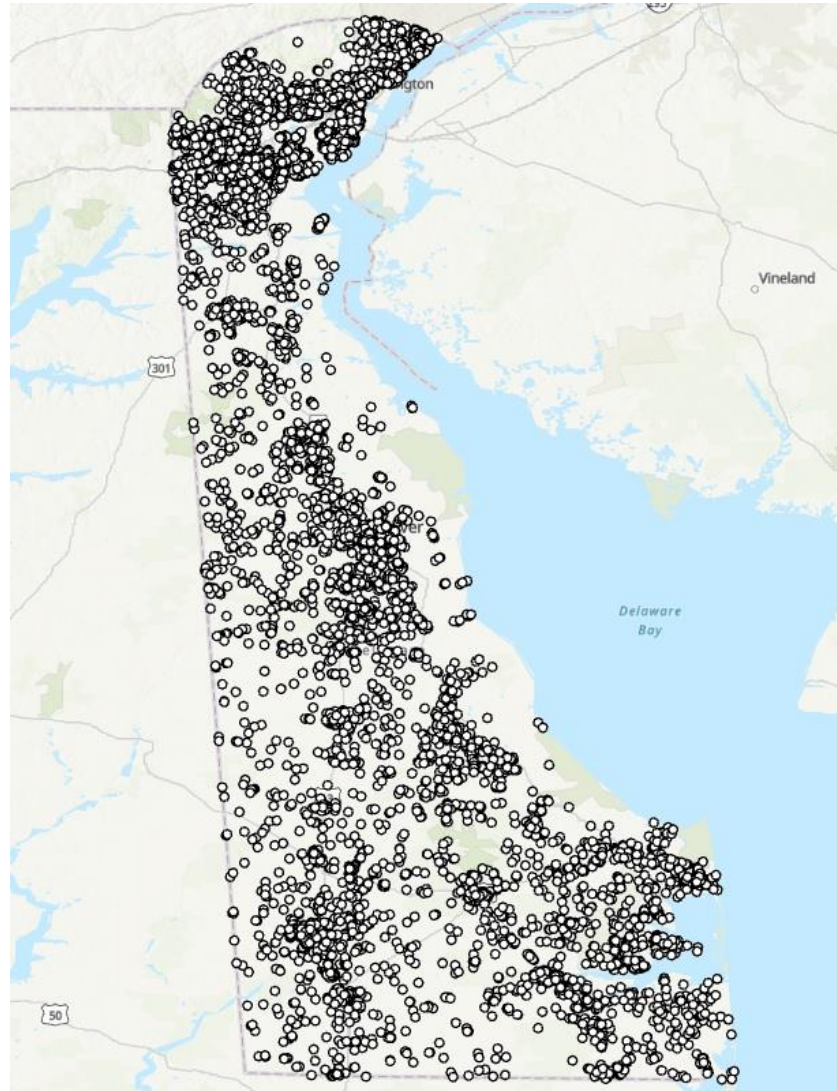
Most employees are FTEs, with some C/S and grant-funded employees.

Costs to defend cases vary.

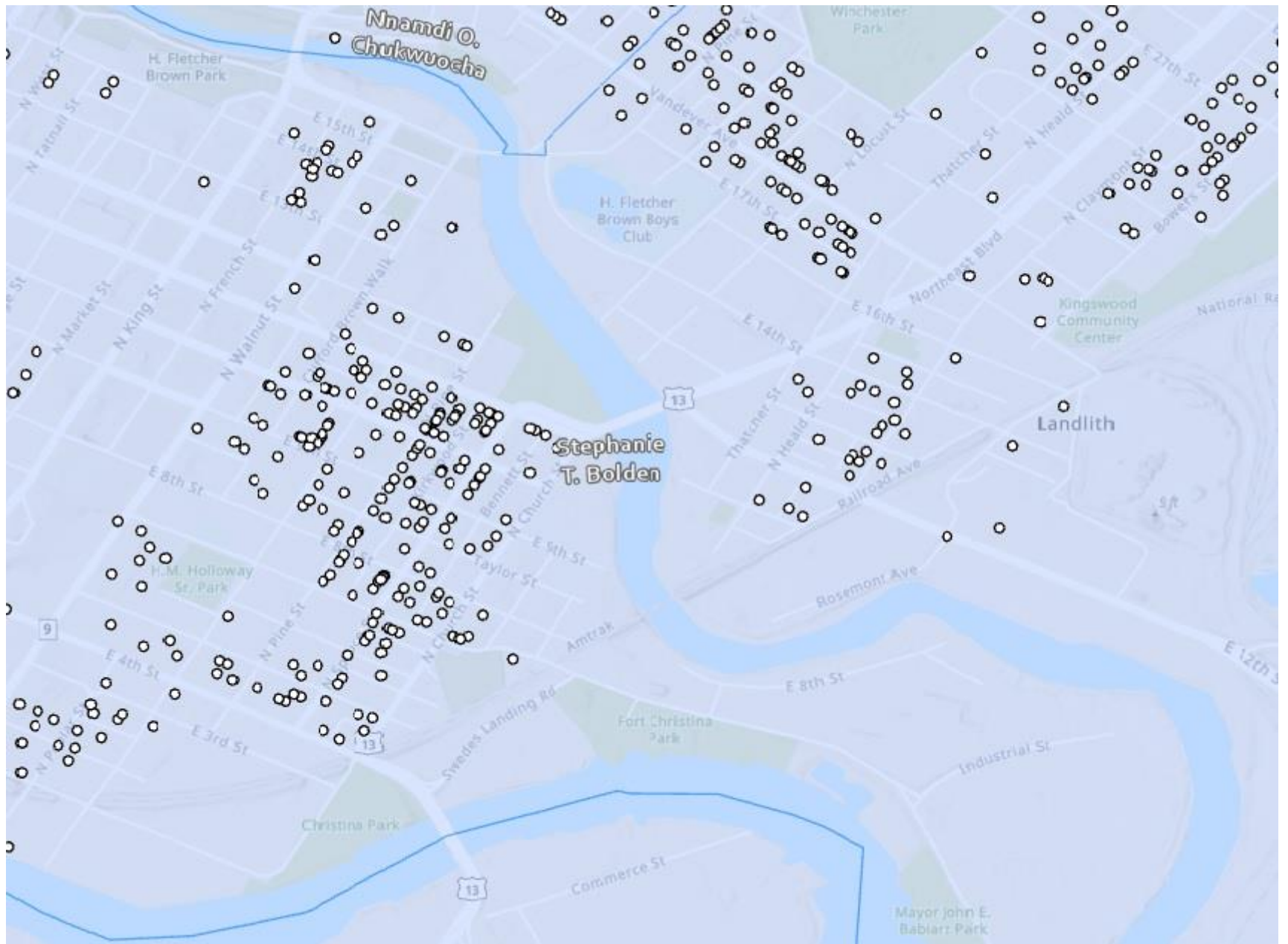
# PDO ATTORNEYS – AVG. CASELOADS

	<u>CCP</u>	<u>FC</u>	<u>SUPER</u>	<u>SUPR.</u>
AVG. (Total)	731	345	442	23
AVG. (Closed)	579	317	161	23
A.B.A. (1973)	400	200	150	25

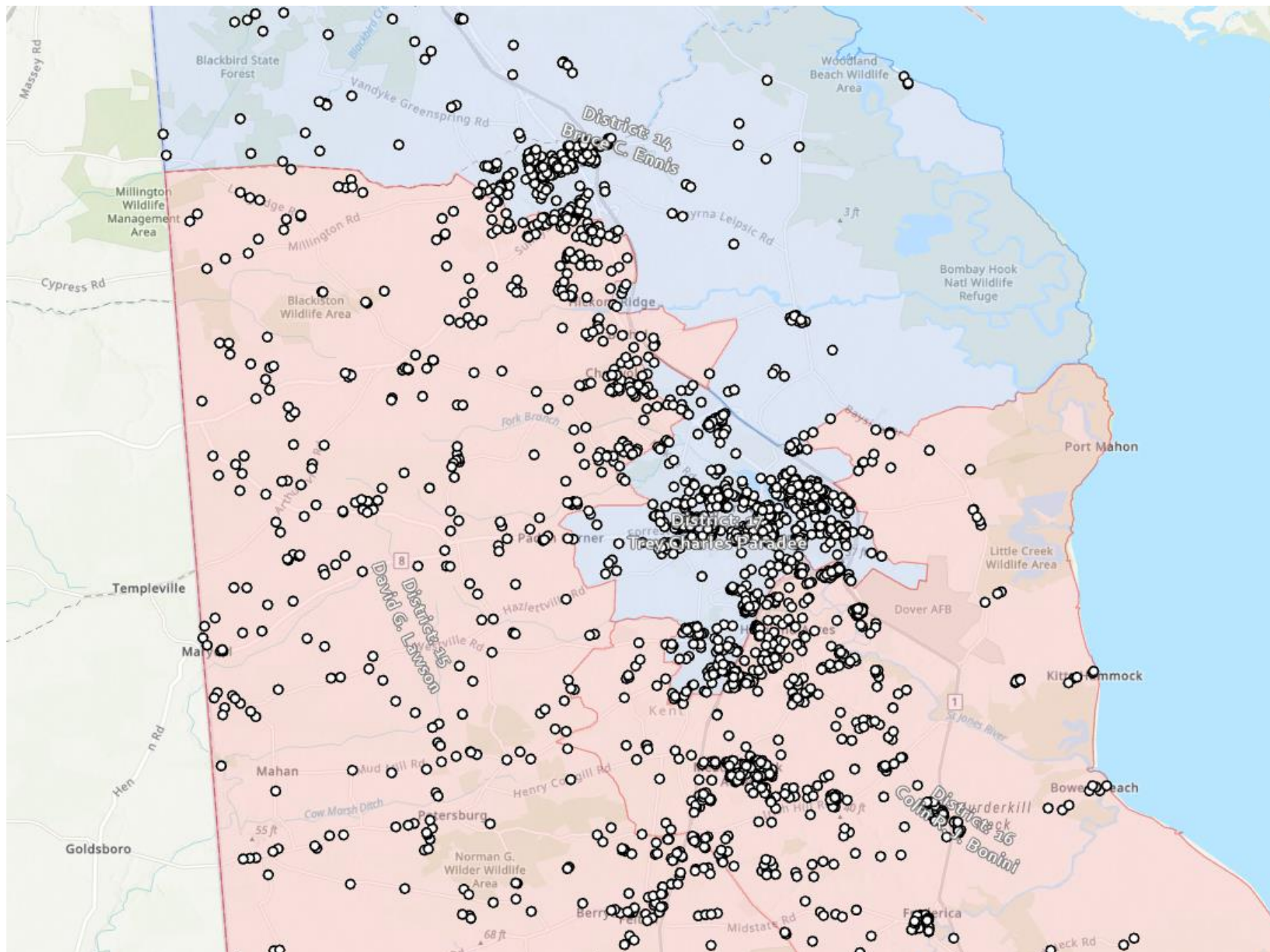
# PDO clients from all over



PDO clients across Delaware during FY'18.







# Office of Conflicts Counsel

The OCC represents defendants in cases the PDO cannot by assigning cases to (36) private attorneys acting as independent contractors.

The OCC staff includes:

7 FTEs, including a managing attorney in each county;

3 casual/seasonal staff;

2 contractual employees.

# OCC continued

Fixed costs for employees;

Variable costs:

- Attorneys fees (hourly);

- Necessary services:

  - Experts;

  - Transcripts;

  - Other.

# **OCC continued**

Outlier cases

e.g., 18 defendants in a single case,  
resulting in a series of 4 jury trials  
which began in October

Costs can skyrocket

Steps to control costs



# **Governor's Recommended Budget**

(GRB)

Central Administration - \$3.030M

Public Defender - \$16.199M

Office of Conflicts Counsel - \$6.899M

Overall total - \$26.1 M

# **ODS' Responsibilities and Resources**

Constitutionally mandated

Need resources:

- To meet current responsibilities

- To ensure future

GRB comes close

Need a bit more

# Requests

- Convert 4 PDO grant attorneys ✓
- Contract Rate Restoration ✓
- Rate Increase For Contractors and casual/seasonal (c/s) employees
- Surface books for PDO attys - ??
- State bar dues
- Increased budget for trainings
- Clerkship funds

# **Convert 4 PDO Attorneys to FTEs**

Federal grants awarded in 2015 and 2017

- 2 Juvenile Defenders
- Juvenile Justice Policy Specialist
- Expungement/Post Disposition Coordinator

Goals

- Expanded access to justice
- Improve quality of counsel

Positions needed to maintain progress

# Juvenile Justice Grant

In 2018, the grant-funded juvenile defenders with the Public Defenders Office opened **524** cases and closed **388** cases.

The post-disposition attorney made **659** client contacts in 2018.

This attorney also organized 13 clinics across Delaware, including two separate week-long events, resulting in **246** expungements granted.



Senate Bill 146 signing at the Rt. 9 library during expungement week in October 2018

# Rate Restoration

- FY 17 - \$100/hr
- FY 18 – Budget Shortfall - \$90/HR
  - “Shared sacrifice”
- Return to \$100/hr is only fair
- In other circumstances, the range is from \$125/hr to \$350/hr
- The estimated cost is \$350,000 and was included in the Governor’s Recommended Budget (GRB)

# **Increase for non-FTE, non-atty C.A. employees**

- Central Administration - 4 C/S EEs
- \$1/hour increase = \$3100
- Total increase in pay for C.A.  
non-FTEs, non-attys = \$3100

# **Increase for non-FTE, non-atty PDO employees**

7 C/S EEs @ \$1/hour increase = \$5100

9 Contractual employees increased @  
\$1500 each = \$13,400

Total increase in pay for PDO non-FTEs,  
non-attys is \$18,500



# **Increase for non-FTE non-atty OCC employees**

Office of Conflicts Counsel – 3 C/S EEs

\$1/hour increase = \$3,000

OCC – 2 Contractual employees

\$1,500 each = \$3,000

Total increase in pay for OCC non-FTEs, non-attys is \$6,000

# Mobile Technology

- 46 Microsoft Surface books
- \$1,400 each
- Total = \$64,000
  
- May be covered by GRB in its allocation to DTI

# **Delaware State Bar Dues**

- Reduced rate of \$120 an attorney
- 116 eligible attorneys
- Total = \$13,920

# Increased Training

- FY'19 allocation is \$9,000 (4/yr)
- Insufficient for meaningful and appropriate training opportunities
- Requesting \$25,000 (10/yr), a \$16,000 increase
- \$12,700 was included in the GRB
- Asking for an additional \$12,700

# Summer Law Clerks

- The clerk program acts as a feeder system
- Currently clerks are unpaid volunteers
- ODS is losing out to paid positions, like DOJ
- To be competitive, need to pay
- 5 clerks at \$3,000 each
- Total = \$15,000

# **Above and Beyond GRB**

- \$27,600 for small increases for non-attny, non FTEs
- \$13,920 for State Bar Dues
- \$12,300 (addt'l) for travel for trainings
- \$15,000 for Summer Law Clerks
- Total \$68,820 more than GRB

# Summary

- ODS has huge responsibilities
- Constitutionally mandated
- ODS needs resources
  - to meet current needs
  - to ensure future
- Gov's recommended budget is fair
- Need just a bit more
  - to meet current needs
  - to ensure future